

prior to sending another Office Action. Relevant portions of MPEP 713.01 are included on the signature page of this amendment.

Claims 16-17 have been rejected under 35 USC 112, second paragraph. These claims have been amended to over come this rejection and withdrawal thereof is respectfully requested.

Claims 1, 3-5, 8-11, 25, 30-31, 34-39, 41 and 43-44 have been rejected under 35 USC 102(e) as being anticipated by Sato et al. (5,461,501). and claims 2, 6, 12-13, 16-17, 19-20, 42 and 45 have been rejected under 35 USC 103(a) as obvious over Sato et al. (5,461,501). Claims 21-23, 27 and 28 have been rejected under 35 USC 103(a) as being unpatentable over Kahn in view of Sato et al. By the attached unsigned declaration under 37 CFR 1.131 of co-inventors Evan G. Colgan, James M.E. Harper and James L. Speidell applicants swear behind the filing date of Sato et al. withdrawal of these rejections are respectfully requested in view thereof. A corresponding signed declaration will be submitted as soon as it is available.

Claims 7, 24, 26, 28 and 40 have been rejected under 35 USC 102 (b) as being anticipated by Kahn. Applicant's respectfully disagree. Claim 7 depends from claim 6 which recites " wherein said plurality of liquid crystal devices have a thickness determined by a dielectric layer having openings formed over said respective mirrors". Kahn has no teaching of this recitation and thus cannot anticipate claim 7. Claim 24 depends from claim 22 which recites at line 6 "nonconductive optical blocking material". and claim 28 , three lines from the end recites "nonconductive optical blocking means". The examiner refers to in Kahn "optical blocking material, 66 see column 5 lines 35-40." The text referred to in Kahn teaches " Capacitor structure 64 is a metal layer. Capacitor structure 64 can also act as a light blocking layer.." This teaches away from applicants invention claimed in claims 24 and 28 which recites "nonconductive optical blocking material" and "nonconductive optical blocking material", respectively. Thus Kahn cannot anticipate claim 24 and 28. Claim 26 recites at line 6 "a frame disposed along an edge of said first electrode". Applicants can find no such teaching in Kahn which

thus cannot anticipate applicants' claim 26. Claim 40 depends recites at line 2, "a first substrate comprising a plurality of reflection electrodes with a gap portion formed there between". Applicants do not find such a teaching in Kahn and thus Kahn cannot anticipate claim 40. In view of the remarks herein the examiner is respectfully requested to withdraw the rejection of claims 7, 24, 26, 28 and 40 under 35 USC 102 (b) as being anticipated by Kahn.

Claims 1-45 have been rejected under the doctrine of double patenting over claims 1-19 of US Patent No. 5,706.067. In Office Action dated October 14, 1998 the examiner determined that claims 14 and 32-33 were patentably distinct from claims 1-13, 16-30 and 34-38. Thus it is improper to reject both sets of claims under the doctrine of double patenting. Applicants assume that the examiner intended to limit the double patenting rejection to claims 1-13, 16-30 and 34-38 in regards to which applicants will submit a terminal disclaimer over US Patent No. 5,706.067 when claims under examination herein are found allowable which are that time determined not to be patentably distinct from the claims of US Patent No. 5,706.067.

In view of the changes to the claims and the remarks herein, the Examiner is respectfully requested to reconsider the above-identified application. If the Examiner wishes to discuss the application further, or if additional information would be required, the undersigned will cooperate fully to assist in the prosecution of this application.

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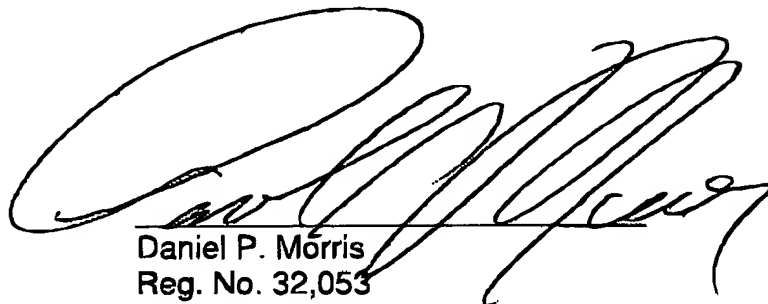
If the above-identified Examiner's Action is a final Action, and if the above-identified application will be abandoned without further action by applicants, applicants file a Notice of Appeal to the Board of Appeals and Interferences appealing the final rejection of the claims in the above-identified Examiner's Action. Please charge deposit account 09-0468 any fee necessary to enter such Notice of Appeal.

In the event that this amendment does not result in allowance of all such claims, the undersigned attorney respectfully requests a telephone interview at the Examiner's earliest convenience.

MPEP 713.01 states in part as follows:

Where the response to a first complete action includes a request for an interview or a telephone consultation to be initiated by the examiner, ... the examiner, as soon as he or she has considered the effect of the response, should grant such request if it appears that the interview or consultation would result in expediting the case to a final action.

Respectfully submitted,



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